

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

BARBARA DANAY,)	
)	CASE NO.: <u>3:19-cv-00169-MGL</u>
Plaintiff,)	
)	
v.)	
)	
HULL PROPERTY GROUP, LLC AND)	
SUMTER MALL, LLC)	
)	
Defendants.)	

**TO THE HONORABLE JUDGES AND CLERK OF THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA**

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. § 1332, 1441, and 1446, Defendants Hull Property Group, LLC (“Hull”) and Sumter Mall, LLC by counsel, hereby files this Notice of Removal to remove the above-entitled action to this Court based upon the following supporting grounds.

VENUE

1. On December 11, 2018, Plaintiff Barbara Daney filed her Complaint in the above-entitled action against Hull Property Group, LLC and Sumter Mall, LLC in the Sumter County Court of Common Pleas, Cause No. 2018-CP-43-02194, and is now pending therein.

2. Removal to the District of South Carolina, Columbia Division is appropriate pursuant to 28 U.S.C. § 1441(a), because the District of South Carolina, Columbia Division embraces the County of Sumter, where the action was pending prior to the filing of this Notice of Removal.

REMOVAL IS TIMELY

3. On December 20, 2018, Removing Parties Hull Property Group, LLC and Sumter Mall, LLC was served by certified mail with a Summons and Complaint in the above-entitled action at 1703 Laurel Street, Columbia, SC, 29201, to its Registered Agent, Corporation Service Company.

4. Hull Property Group, LLC and Sumter Mall, LLC, are timely filing this Notice of Removal pursuant to 28 U.S.C. § 1446(b).

5. No further proceedings have been had in the Sumter County Court of Common Pleas.

6. The Notice of Removal is filed with this Court within thirty days after receipt of service of Hull Property Group, LLC and Sumter Mall, LLC of the initial pleading, consistent with 28 U.S.C. § 1446.

DIVERSITY JURISDICTION EXISTS

7. This is a civil action that falls within the Court's original jurisdiction under 28 U.S.C. § 1332 and is one that may be removed to this Court based on diversity of citizenship under 28 U.S.C. §§ 1441 and 1446.

8. Plaintiff Barbara Daney is a citizen and resident of the County of Clarendon, State of South Carolina.

9. The Hull Property Group, LLC is a domestic Georgia limited liability company with its principal place of business in Augusta, Georgia. (Exhibit A). The Sumter Mall, LLC is a domestic Georgia limited liability company with its principal place of business in Augusta, Georgia. (Exhibit B). The corporate offices are located in Augusta, Georgia. Id. The Hull Property Group, LLC and Sumter Mall, LLC are registered foreign South Carolina limited

liability companies. (Exhibit C). Therefore, Hull Property Group, LLC and Sumter Mall, LLC are citizens of the State of Georgia.

10. Because Hull Property Group, LLC nor Sumter Mall, LLC are neither incorporated in South Carolina, nor has its principal place of business in South Carolina, it is not a citizen of the State of South Carolina for purposes of diversity jurisdiction.

11. There is complete diversity citizenship between the parties named in this case.

12. Plaintiff's Complaint does not demand a specific sum of monetary damages. This Notice of Removal states that the monetary value of the amount in controversy exceeds \$75,000,¹ exclusive of interest and costs, based upon the following:

- a. Plaintiff alleges that she has suffered damages, including injuries to her neck, back, knees and hands including surgical fees.
- b. Plaintiff alleges that she has incurred medical expenses in her Complaint.
- c. Plaintiff seeks punitive damages and billable costs of the action.

13. Based upon the injuries alleged and damages claimed by Plaintiff, if proven, those damages could result in a jury verdict in excess of \$75,000, exclusive of interest and costs, and/or the amount in controversy exceeds \$75,000 exclusive of interest and costs. Additionally, Plaintiff submitted a demand for damages prior to the filing of this lawsuit in an amount that exceeds \$75,000.00, which has been attached as Exhibit D.

¹ "A defendant who seeks to prove that the amount in controversy is greater than the jurisdictional amount does not automatically concede that the jurisdictional amount is recoverable." 14AA Fed. Prac. & Proc. Juris. § 3702.1, Determination of the Amount in Controversy—Cases Removed from State Court (4th ed.). Here, Hull Property Group, LLC and Sumter Mall, LLC does not concede whatsoever that the jurisdictional amount in controversy is recoverable or that there is any basis for Plaintiff's allegations. Indeed, Hull Property Group, LLC and Sumter Mall, LLC contends that the allegations are entirely without merit and, as such, no damages are recoverable by Plaintiff.

14. Therefore, this state court action is properly removed to this Court in accordance with 28 U.S.C. §§ 1441 and 1446 because: (1) this action is a civil action pending within the jurisdiction of the United States District Court for the District of South Carolina, Columbia Division; (2) this action is between citizens of different States; and, (3) the amount in controversy exceeds \$75,000 exclusive of interest and costs.

STATUTORY REQUIREMENTS

15. Pursuant to 28 U.S.C. § 1446(a), a copy of the entire state court file is attached and includes all pleadings served or filed in this action as of the date of this Notice of Removal.

16. A copy of this Notice of Removal has been filed in the Sumter County Court of Common Pleas and Plaintiff has been served with both this Notice of Removal and Notice of Filing of Removal.

WHEREFORE, Defendants Hull Property Group, LLC and Sumter Mall, LLC, by counsel, requests that this cause proceed in this Court as an action properly removed.

TURNER PADGET GRAHAM & LANEY, P.A.

By: /s/ Nickisha M. Woodward

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AND SUMTER MALL, LLC*

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

CIVIL ACTION NO:

BARBARA DANEY,

Plaintiff,

vs.

HULL PROPERTY GROUP, LLC AND
SUMTER MALL, LLC

Defendants.

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Notice of Removal, Civil Coversheet, Answer, Exhibits and Rule 26.01 on behalf of Hull Property Group, LLC and Sumter Mall, LLC, were served on the following by electronic filing and placing same in the United States Mail, postage prepaid addressed to:

Lauren L. Felder
Chandler & Jennings, LLC
P.O. Box 40459
North Charleston, South Carolina 29423-0459

and served by electronic filing only to:

James C. Campbell
Sumter County Clerk
215 North Harvin Street
Sumter, SC 29150-4974

/s/ Nickisha M. Woodward
Nickisha M. Woodward